FO ONE HUNDRED AND FIFTY YEARS

Chicago Tribune

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Chicago Sports Final
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ANTE UP

THE SPRINGFIELD MONEY GAME

AP photo

Lobbyists position themselves along the brass rail in the Capitol rotunda to buttonhole legislators as they come and go from House and Senate chambers.

Gridlock opens cash spigot

Competing interests use campaign fund donations to get their opposing views heard in the legislature in Springfield.

Second in an occasional series.

By Rick Pearson, Cornelia Grumman and Bob Secter
TRIBUNE STAFF WRITERS

Whether delivery truck drivers are owed a paid lunch hour might seem the sort of question for labor and management to thrash out and not state lawmakers.

But almost any issue is fair game for the Illinois General Assembly when it has the potential to stir up a flurry of campaign cash from special interests hoping to sway votes.

Months before this summer's crippling Teamsters strike at United Parcel Service, the company and union fought a little-watched skirmish over lunch benefits. The battleground was in Springfield, and the outcome provided a vivid lesson in how legislators leverage controversy into campaign cash.

Essentially, UPS drivers in Illinois were pushing a class-action lawsuit over back lunch pay they claimed they were owed. A similar suit in Washington state had cost the company $10 million, so the firm sought an unorthodox change in state compensation laws in Illinois that would have effectively undercut the suit.

In the end, the UPS bill never was put to a final vote. But along the way, the campaign war chests of legislators grew fatter as both sides lobbed tens of thousands of dollars into them.

The UPS-Teamsters clash provides a classic illustration of how a good sprinkling of money can ensure that almost any issue gets an airing in Springfield. It does not, however, ensure victory.

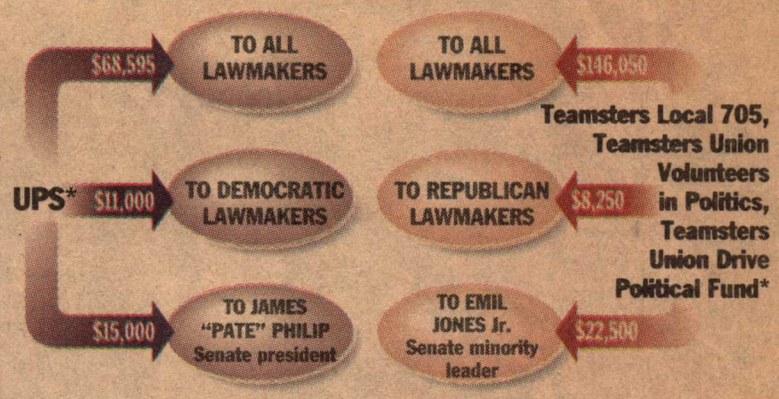
SEE MONEY, PAGE 6

Special interest money

Special interests such as UPS and the Teamsters have become an ongoing source of financial support for lawmakers in battles for legislative control.

Contributions–UPS vs. Teamsters

The UPS-and-Teamster Union clash over back lunch-hour pay prompted both to contribute to lawmakers in hopes of swaying opinions in their favor. In the end, the bill UPS sought to block the payment of back pay did not pass.



* Contributions between June 1 and Dec. 31, 1996

Chicago Tribune

Campaign funds flow from gridlock

State legislators' political war chests grow, as competing interests seek support for their positions. Opposing lobbyists may even bid each other up. But the money does not guarantee victory.

CONTINUED FROM PAGE 1

A Tribune computer analysis of Illinois campaign finance records shows special interests such as UPS and the Teamsters have become a perpetual wellspring of financial support for increasingly costly battles for legislative control.

Think of the legislative process as a kind of cockeyed poker game. The axiom in poker is that you have to pay to play.

Special interests such as UPS and the Teamsters kick in campaign money just to get dealt a hand. Then, they bid each other up, fearing that failure to do so might cost more in the long run if the other side prevails.

From expanding riverboat gambling to reforming the way taxpayers pay for public schools, the legislature each year is confronted with a broad range of hot-button issues that somehow never seem to be resolved. The reasons driving the inaction are many and diverse.

But one thing is clear: Gridlock is great for fundraising.

In the most exhaustive study of Illinois campaign finance to date, The Tribune sifted through tens of thousands of campaign transactions by incumbent legislators and challengers in 1995 and 1996.

The study underscores the critical nature of campaign contributions in securing a place for special-interest lobbyists at the brass rail in the Capitol rotunda. It is from that prime perch that lobbyists buttonhole legislators as they come and go from House and Senate chambers.

Lawmakers insist issues are not settled with campaign cash. But they acknowledge that cash sure gets a foot in the door.

"I have always said that I don't think anybody buys votes with campaign contributions. But they improve their credibility. They get an opportunity to make their case and to have a bill raised," said state Sen. Steven Rauschenberger (R-Elgin).

As the UPS battle simmered last year, Rauschenberger was the recipient of a $5,000 donation from the company.

The controversy was triggered by the company's concern over a class-action lawsuit filed in Cook County by a handful of its delivery drivers. The drivers wanted to force UPS to give them back-pay and overtime, in large part because they had repeatedly worked through their lunch hours.

To prevent a repeat of the expensive Washington judgment, UPS asked the legislature to revise a 1994 law that governed compensation for delivery drivers, making it retroactive to 1976. That would have barred drivers who joined the company after that date from joining the suit.

"This is the first time in my experience that I have ever seen a company seek to obtain a change in the law made retroactively so as to eliminate claims against it," said Irving King, an attorney for the drivers.

The bill passed the House in February 1996 and then percolated for months in the Senate. With the bill still pending, lawmakers left Springfield to run their election campaigns. As the bill sat, UPS donated $68,595 to 58 legislators during the last six months of 1996.

Those contributions included $15,000 to Republican Senate President James "Pate" Philip of Wood Dale less than three weeks before the November election. Another $17,500 was sent to Philip's assistant GOP leaders to dole out to colleagues facing difficult re-elections.

During the same six-month period, three political action committees of the Teamsters Union, including Local 705, which covers UPS drivers, donated $145,300 to legislative candidates, primarily Democrats. Those contributions included $22,500 to a fund controlled by Senate Democratic leader Emil Jones.

Tribune photo by Jose More

Gov. Jim Edgar and Secretary of State George Ryan shake in June after lowering the state's threshold for driving under the influence of alcohol. The move is seen as one of few grass-roots victories.

Tribune photo by Tim Zielenbach

Riverboat owners, who gave $685,654 to campaigns in 1995 and 1996, hope to keep lawmakers from raising gambling taxes.

Some of that money would have flowed anyway in a critical election year. Other labor-management issues also were pending in the General Assembly during the campaign season, including a Republican-backed effort to rewrite the state's worker's compensation laws.

Still, some lawmakers said privately that there was little doubt the lunch-hour bill led to a surge in campaign contributions.

In the end, Republicans could not deliver for UPS. The bill was brought up for a final Senate vote on Jan. 7 of this year, the last day of the lame-duck 89th General Assembly, but supporters called off the final tally when it became clear they were a few votes shy.

The lawsuit, which is still pending, now involves about 3,000 drivers.

"This kind of came out of the blue and didn't have anything to do with public policy," acknowledged Rauschenberger.

The campaign coffers of both parties have continually profited from similar standoffs. Privately, a few lawmakers suggest that some controversial issues may be raised merely to gin up contributions, with no real intent to create a new law.

One Republican lawmaker, who asked not to be identified, pointed to several plans that have been floated before the legislature in recent years to authorize feasibility studies of a new airport such as the one Gov. Jim Edgar wants to build near Peotone. United and American Airlines, the biggest carriers at O'Hare International Airport, vehemently oppose any new regional landing strip.

"I don't know how serious they ever were about Peotone, but every time it came up, it would stir up [contributions from] those two big airlines at O'Hare," the legislator said.

When it comes to profiting from the status quo, the biggest winner in recent years for both parties was the so-called tort reform issue that pitted doctors against trial lawyers in a fight to limit civil damage awards, including those in medical malpractice cases.

For years, the physician lobby, which favored the change, put their considerable financial might behind Republicans. The lawyers, who opposed it, threw their money to the Democrats.

In 1995, Republicans took control of both legislative chambers and muscled through a damage cap. Even then, money continued to flow from the two groups, with the lawyers poised to seek a repeal of the law if it is not voided by court challenges.

In recent years, gambling interests have surfaced as a new political moneymaker, although the state's riverboat gaming law remains unchanged.

Gambling interests contributed more than $1.1 million to legislative campaigns in 1995 and 1996, but the money hardly represents a monolith because the interests want different things.

Owners of existing riverboats, who gave $685,654, hope to keep legislators from raising gambling taxes or creating new competition by expanding gaming in any way.

Meanwhile, the horse racing industry, led by Arlington International Racecourse in Arlington Heights, would like to augment betting on the ponies with some legalized games of chance. The racing industry donated $328,595. Forces seeking new riverboat licenses contributed $104,244 to legislative campaigns.

"There are probably as many reasons [to donate] as there are licensees," said Adrienne Levatino of the Illinois Casino Gaming Association, which represents the interests of seven of the nine active riverboat gambling operations in the state.

"Gaming is an intensely passionate topic about which people have intensely divergent ideas," she said. "As long as we have the system of campaign financing, as long as campaigns are outrageously expensive, then any industry of any magnitude is going to feel that participating in the process is critical."

But it is not just industry that pays to play in the legislature. Last spring, the Illinois Education Association and the Illinois Federation of Teachers lobbied heavily for passage of Edgar's plan to boost personal income taxes to provide property-tax relief and new mon for schools.

Both unions, which represe teachers across the state, have long history of political involv ment. Last year, they contribut $1.7 million in campaign cash a services—primarily phone ban and door-to-door get-out-the-vo efforts. That helped return t House to Democratic control a narrowed the Republican major in the Senate.

The unions intensely lobbied Edgar's plan and made not-s veiled threats to target opponei for retribution in the 1998 electio Still, the bill passed the House wi only a handful of GOP support. died in a Senate committee, large because members of the GOP-co trolled panel feared union mig less than a potential voter backlas if they voted to hike the incon tax.

Indeed, no special interest, n matter how much they contribut can find a willing legislator t advance their cause when it could cost re-election.

"While campaign contributions are important to make sure one can get their message out and get re-elected, nothing is more important than an uprising of actual voters in their districts," said Sen. Kirk Dillard (R-Hinsdale). "A good grass-roots campaign will always supersede a well-moneyed special interest."

In some ways, that happened last spring when legislators approved—and Edgar signed— legislation lowering the state's legal level of intoxication to a blood-alcohol concentration of 0.08 percent.

Groups such as Mothers Against Drunk Driving had lobbied for almost a decade for a lower standard, always encountering powerful and successful opposition from the restaurant and liquor industry. But as public attitudes toward drinking and driving began to change, so did the votes of legislators.

In the last two years alone, the alcohol industry poured $862,233 into legislative campaigns to stave off a tightening of drunken-driving standards. Meanwhile, not-for-profit groups such as MADD risk losing their tax-exempt status if they contribute to political campaigns.

Still, MADD and other advocates of the 0.08 standard managed to convince legislators that it was time for a change.

"Clearly, contributions play a major role in shaping legislation," said Brad Fralick, executive director of the MADD chapter in Illinois. "But you still have to have some semblance of what is right and wrong, and here it showed that what is right can win out over anything."

How the Tribune analyzed funding

The Tribune's report on Illinois campaign finance is based on records of more than 88,000 contributions and 23,000 expenditures reported to the Illinois Board of Elections by candidates for state office in 1995 and 1996. The investigation was assisted by computer databases created by the Center for Public Integrity, a Washington-based not-for-profit, non-partisan research group, and Kent Redfield of the Illinois Legislative Studies Center at the University of Illinois at Springfield. The Tribune conducted its own analysis of the data.

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Tribune photo by Candice C. Cusic

Baggage handler Billy Royal suffered an injury a year ago and wonders if OSHA's proposals could have prevented it. Story, **Back Page.**

U.S. targets work injuries

OSHA: Firms must fix ergonomics
Businesses: Costs unmanageable

By Frank James
WASHINGTON BUREAU

WASHINGTON—The Labor Department on Monday unveiled sweeping new rules to reduce carpal tunnel syndrome and other workplace ailments suffered by millions of Americans.

"Good ergonomics are also good economics," Labor Secretary Alexis Herman said, but business leaders strongly disagreed.

Several groups representing employers contended that the new rules would impose a heavy financial and administrative burden on them.

"OSHA [the Occupational Safety and Health Administration] has written a blank check on the backs of American workers and their employers," said Randel Johnson, the U.S. Chamber of Commerce's vice president for labor policy.

The regulations, the groups said, are unjustified by available scientific evidence and OSHA should have waited for the National Academy of Sciences to complete a congressionally mandated study of the ergonomics issue that is due in a year. They vowed to fight the new rules with every available means, including court challenges.

OSHA, the agency within the Labor Department that will implement the rules, said they would prevent an average of 300,000 workers from receiving painful and potentially disabling on-the-job injuries.

Repetitive-motion injuries such as carpal tunnel syndrome and back problems related to work cost $9 billion a year in worker's

SEE INJURIES, BACK PAGE

■ James Coates voices support for the proposals, based on personal experience. **In Business.**

Addressing ergonomics

Under a proposal to prevent workplace-related ergonomic injuries:

1. A worker who has an ergonomic injury diagnosed by a doctor would be entitled to have the work environment fixed to relieve the cause.
2. At workplaces with numerous incidents of ergonomic injury, employers would have to provide medical help and safety training for workers in addition to fixing physical problems.
3. Companies with workers who do manual heavy lifting would be required to provide preventive training.

Source: OSHA Chicago Tribune

Lawyers demand

Injuries

CONTINUED FROM PAGE 1

compensation and other expenses, the agency said. OSHA said the new standards would protect as many as 27 million workers.

The proposed regulations would require about 1.6 million employers to begin a basic program in ergonomics, the science of tailoring job activities to workers in a way that reduces physical problems and aids efficiency.

The basic program would require employers to designate someone to oversee ergonomics, inform workers about the risks and signs of injuries, and institute a system for employees to report such problems.

Workplaces where at least one documented work-related injury had occurred would have to implement a full ergonomics program, requiring analysis and control of job hazards and training in ergonomics.

OSHA has the power to issue regulations unless Congress acts to intercede. Earlier this year, the House passed legislation that would have delayed the regulations, but the Senate failed to act before recessing for the year.

The proposed rules are slated to be published in the Federal Register on Tuesday, followed by a lengthy comment period and public hearings in Chicago in April and in two other cities. The rules could take effect after the public comment period.

"Today we begin a long-awaited process of protecting workers from these disabling disorders," Herman said. "This is the right thing to do. This is the smart thing to do . . ." Herman said the Labor Department estimated the costs to employers to implement the program would be $4.2 billion.

Responding to criticisms that followed publication in February of a draft of the rules, the Labor Department said it had included a "quick fix" provision that would permit employers to correct hazards within 90 days and avoid the requirement to start a full ergonomics program.

Business groups disputed Herman's estimate about the proposed rules' costs to employers. They pointed to a conflicting estimate from within the administration: The Small Business Administration has estimated the rules would cost businesses $18 billion.

Food Distributors International, a Washington, D.C.-based trade and lobbying group, said it conducted a study that estimated the proposed rules could cost its industry alone at least $5.2 billion and as much as $26 billion.

"This is a new layer of government regulation that will make it that much more difficult for small business owners to stay in business," said Mary Leon, a lobbyist for the National Federation of Independent Business.

Added the Chamber of Commerce's Johnson: "If OSHA persists in pushing forward this ill-considered regulation, then we will meet them in court."

The business community is particularly rankled by a requirement that workers who must take time off to convalesce from musculoskeletal injuries get 90 percent of their pay and 100 percent of their benefits.

That compares with less-generous worker's compensation benefits laws in some states. Illinois, for instance, requires employers to provide two-thirds of a worker's pay in such instances.

"Our folks are extremely concerned about that," said Robb Mackie, vice president of government relations for the American Bakers Association. "The federal government should not be interfering in the states' ability to regulate worker's comp through some sort of regulatory fiat."

One of the main points made by critics is that conclusive scientific evidence doesn't exist to support OSHA's arguments.

Congress last year approved $1 million for a non-partisan study by the National Academy of Sciences in an attempt to establish or disprove a conclusive link between physical workplace activities and repetitive-stress injuries. The study is due to be completed in early 2001.

Several Republicans who lead House committees raised concern at OSHA's timing in releasing the regulations on "the first business day after Congress adjourned for the year," they said in a statement.

OSHA countered by providing several supportive statements for its efforts from the health-care community.

"The epidemic of work-related injuries occurring today is a public policy and economic issue that needs to be addressed," said Karen Jacobs, a physician and president of the American Occupational Therapy Association.

By the numbers

The statistics driving the Occupational Safety & Health Administration's proposal aimed at improving ergonomics:

25 Average number of workdays an employee missed because of carpal tunnel syndrome.

42% Carpal tunnel syndrome cases that result in more than 30 days away from work.

50% U.S. employees who are not covered by a company ergonomics program.

75% General industry employers that will not be required to implement an ergonomics program.

$150 Average annual cost to an employer for altering a job so that it will not cause a work-related musculoskeletal disorder (MSD).

$22,500 Average amount in direct costs to be saved for each MSD prevented.

300,000 Number of workers who annually will be spared work-related MSDs if the ergonomics standard goes into effect.

600,000 Number of injuries involving lost workdays per year due to MSDs in the U.S.

1.8 million Number of U.S. workers who annually suffer MSDs.

1.9 million Number of general industry worksites that will come under OSHA's ergonomics standard.

27 million Number of workers who would be protected by the OSHA standard.

$9 billion The amount that repetitive-motion injuries cost each year.

Source: OSHA

Driving Harder

As UPS Tries to Deliver More to Its Customers, Labor Problems Grow

Work Force Resists Measures Firm Deems Necessary In a Competitive World

Packages Go Under Left Arm

By Robert Frank
Staff Reporter of The Wall Street Journal

ATLANTA—Since long before "re-engineering" and "right-sizing" were buzzwords, United Parcel Service of America Inc. has stood as a model of corporate efficiency.

It knows exactly how many workers it needs to deliver its 10 million packages a day. It tells drivers how fast to walk (three feet per second), how many packages to pick up and deliver a day (400, on average), even how to hold their keys (teeth up, third finger).

This attention to detail has always been at the core of Big Brown's success. Owned by its managers, UPS is far and away the largest transportation company in the nation, with annual revenue of $17.8 billion, or twice that of its chief rival, Federal Express Corp. Its boxy brown delivery trucks have become a fixture in the American landscape. And its workers, hailed by customers as models of dependability, have accepted (if not always embraced) management's Prussian culture – finding consolation in $40,000-plus salaries, generous benefits and a handsome profit-sharing plan.

UPS, though, like much of the rest of corporate America, has been pushing to get even more productive. In recent months, it has rolled out a slew of new products and services: computerized tracking systems, bulk discounts on large shipments, higher limits on package weights and earlier and earlier "guaranteed arrival" times.

More to Haul

Customers love the changes. But inside UPS, the overhaul is causing problems, especially with the company's heavily unionized workers. The new measures require employees to haul more packages and move heavier loads, as well as spend more time on complicated deliveries, all without sacrificing their productivity. They are starting to rebel.

Employee lawsuits, federal fines and a recent walkout—the first nationwide strike in UPS history – have jolted the company. In the past year alone, according to the company, labor troubles have cost UPS more than $100 million. And while it is still a financial powerhouse—earning $809 million last year, vs. $516 million in 1992 – labor leaders, industry executives and even some UPS managers say UPS could be headed for more costly showdowns.

A growing number of companies share the plight. Faced with increased competition, they are launching campaigns to raise productivity and provide additional services, only to run headlong into a recalcitrant work force. At American Airlines, flight attendants waged a strike last year in part over the carrier's move to reduce their numbers on larger aircraft. Workers at a General Motors Corp. plant in Shreveport, La., struck to protest a plan to speed up the assembly line and cut staff. Production speed in the meatpacking industry has more than doubled in recent years, prompting more safety fines and union organizing.

Balancing Act

"The issues at UPS are going to become more common as companies enter the productivity race," predicts William Morin, chairman of Drake Beam Morin, an employee consulting firm. "It's a very tough balancing act."

UPS acknowledges as much. "Our drivers are working as hard physically as we would want them to," says Kent "Oz" Nelson, chairman and chief executive. "We try to be careful not to be unfair and ask our people to do more."

Still, he and other UPS executives say, the need for more productivity is unavoidable. UPS says it is using new technologies and better planning to achieve that end without overloading employees. "What is getting more difficult is the variety of services and things they have to remember," says Mr. Nelson.

UPS always has demanded a lot from workers. Years back, a former chairman described UPS as a "cross between the Marine Corps and a Quaker meeting."

Traditional Virtues

That culture began with James E. Casey, a failed gold prospector, who founded the firm as a bicycle-messenger service in 1907. From his managers, Mr. Casey expected teamwork and humility. (Even now, Mr. Nelson, the chief executive, makes his own copies and answers his own phone.) From his people on the front lines, Mr. Casey demanded discipline, loyalty and intense effort – virtues for which UPS would reward them handsomely.

Today, UPS delivery drivers, organized by the International Brotherhood of Teamsters, earn between $40,000 and $50,000 a year, making them what the company and the union call the highest-paid truck drivers in the country. But the troops, as UPS proudly notes, earn it. With a battalion of more than 3,000 industrial engineers, the company dictates every task for employees. Drivers must step from their trucks with their right foot, fold their money face-up, and carry packages under

Please Turn to Page A5, Column 1

Driving Harder: UPS Strives to Deliver Still More To Customers; Work Force Resistance Is Growing

Continued From First Page

their left arm. Those considered slow are accompanied by supervisors, who cajole and prod them with stopwatches and clipboards.

Employees have accepted the system for decades, taking comfort in the salaries and chances for advancement. Promotion from within is gospel; virtually every manager began as a UPS driver or sorter. Mr. Casey, in a treatise called "Determined Men," noted, "You can't be a big man until you've shown competence as a small one." Employees who become managers get shares in UPS, which they can sell back to the company, though they usually don't dare to as long as they have career hopes. The price of the shares is set by the board each quarter.

UPS, meanwhile, has become the strongest force in the U.S. delivery business. With its 128,000 trucks and 458 aircraft, the company now controls more than three-fourths of the ground-parcel market in the U.S. and is a growing force in air-express with about a quarter of the business (roughly half as much as Federal Express), according to Colography Group Inc., an air-freight research firm in Marietta, Ga. Overseas, UPS is still a minor player but is growing its revenue at about 10% a year.

For all its success, UPS finds itself with nagging headaches. In the past, its steep labor costs could be offset in part by price increases. Today, price freezes are the industry norm, a consequence of heated competition from nonunion rivals such as Roadway Package Services, or RPS. That competition, in turn, means that UPS must continue to add products and services, and boost efficiency, to gain ground.

But doing so is generating considerable ill will inside the company. Last fall, for instance, UPS expanded its guarantee of 10:30 a.m. delivery, primarily for overnight letters, to most of the country. The rationale: Air-express packages had become an increasingly important part of the company's business – air revenue grew 15% last year to more than $3 billion – and UPS had to keep pace with Federal Express, which long has offered next-day delivery by 10:30 a.m.

But some drivers say the new program has posed problems. They now have to deliver their air packages first, then double back to cover their normal routes. Tom Saxton, a driver in Durham, N.C., says his delivery loads have jumped to about 220 packages a day from about 160 a few years ago, with more oversized and heavier ones. Mario Rojas of Kansas City, Mo., says he is delivering 30 to 40 air packets a day, compared with five or six a year ago. The drivers also say they are working heavy overtime, driving faster and taking less time on safety checks.

"The heavy day used to be Wednesday," Mr. Rojas says. "Now it's all week."

No Time to Chat

Robert Duncan, a UPS driver in Midway, Ga., says the extra work has forced him to be more brusque. One evening, Mr. Duncan was delivering a hobby kit to an elderly man who had to fetch his COD money. With the air deadline fast approaching, Mr. Duncan had to take the package back.

"He started screaming and calling me all kinds of names," Mr. Duncan recalls. "I felt bad, but I didn't want a supervisor chewing me out for missing the air deadline."

UPS's race into the electronic age also has raised temperatures.

In a bid to bring its plain-brown-wrapper service up to speed with Federal Express and others, UPS has spent more than $2 billion in recent years to update its technology. The biggest improvement is package tracing, a system in which each package is bar-coded and scanned at various delivery points. That has enhanced greatly the company's ability to pinpoint packages for customers, and most drivers say it has eliminated troublesome paperwork and timecards. But some refer to the system as an "electronic umbilical cord" that the company uses to monitor their productivity. UPS says that is not the case.

"Of course they're using it to track us," says Paul Hayes, a driver in Norwood, Mass. "They use everything they can."

New Services

Drivers also have had to become experts on the more than 20 new services and products the company has rolled out in recent months, whereas the company used to have just one. They have to be just as adept at, say, drawing up an air waybill to clear customs in Bulgaria as filling out a ground order to Omaha, Neb., and explaining it all to customers. As part of its aggressive marketing effort, UPS is also asking drivers to scout out users of Federal Express and other rival services and pass on sales leads.

"It's tough to make all your deliveries when they got us doing all these show-and-tells," says Bob Widawsky, a package driver in Manhattan.

UPS executives ascribe much of the labor friction to muscle-flexing by an embattled Teamsters leadership. Mr. Nelson says the worker complaints don't reflect so much an increase in the workload as in the degree of difficulty of many jobs. On the whole, he says, workloads have remained the same and even slipped somewhat because of time-saving technologies and a drop in residential volume. Productivity actually declined last year – domestic package volume fell 0.6% – while employment remained steady at 251,000.

But drivers have had to learn an array of codes and billing systems and follow computer-guided route plans. More and more packages have special handling and time-sensitive requirements, and even sorting-hub workers have more categories to remember.

As a result, UPS has beefed up its training. It is also hiring more skilled and college-educated workers. "It's a lot more thinking," says Dan Preble, manager of training. "So we've got a whole new breed."

Work-Rule Changes

That new breed also may be less tolerant of the company's work rules and demands. Frustrations boiled over last summer in one of the most bitter contract talks in the company's history. Teamsters demanded limits on driver supervision, workloads and harassment by managers. At one point, the union introduced – and publicized – a study purporting to show that UPS employees scored in the 91st percentile of U.S. workers for job stress, while many suffered from anxiety, phobias or back strain. (UPS termed the report biased and unscientific.)

The contract finally was settled with several changes in working conditions, including a statement that management "shall not intimidate, harass, coerce or overly supervise any employee."

Worker strife even has extended overseas, where UPS has lost more than $1 billion in recent years. In Spain, drivers waged a costly one-month strike over the company's working conditions, and in France, several top executives bailed out of a local shipping company shortly after it was acquired by UPS. Culture clashes also occur; UPS's ban on beards, for instance, has roiled workers in Germany and Spain.

Back in the U.S., the courts and the federal government also have taken action. The Occupational Safety and Health Administration doubled its visits to UPS last year. In April, UPS paid $3 million to settle an OSHA complaint that it had inadequately provided for the safety of workers handling hazardous wastes. (UPS said it acted properly but paid the fine to avoid costly litigation.) In Seattle, UPS had to pay $12 million to more than 2,000 drivers last year after a judge ruled that UPS was forcing them to work through lunch.

Weight Limits Rise

Even pilots have entered the picture. In a report sent to UPS and Congress, their union, the Independent Pilots Association, alleged that the pilots fly under "dangerously or seriously impaired" conditions 15% to 31% of the time. UPS says it takes the issue seriously, but calls the report baseless.

Says Ron Carey, general president of the Teamsters and a former UPS driver: "It's a very strained relationship right now, much more so than ever before."

The strain was most visible in January when UPS, as part of an effort to capture more of the light-trucking market, raised its maximum weight to 150 pounds from 70. Drivers and sorters alike revolted, concerned they would hurt their backs and resentful that UPS hadn't raised the issue during contract talks. After midnight on Feb. 7, more than 12,000 UPS workers walked off the job, shutting down operations throughout the Northeast and South in the company's first nationwide strike.

The one-day walkout proved costly. UPS estimates it lost more than $100 million from added expenses and customer defections. It is suing the union for damages.

Meanwhile, workers are braced for even tougher demands. Drivers themselves say they are troubled by the growing number of RPS and Federal Express trucks passing by on their routes. "Whenever I see an RPS guy unloading his truck, I know those are packages we're losing," says Chris Plemmons, a veteran package car driver from Durham, N.C. "But you just wonder how much more they can squeeze out of us before something breaks."

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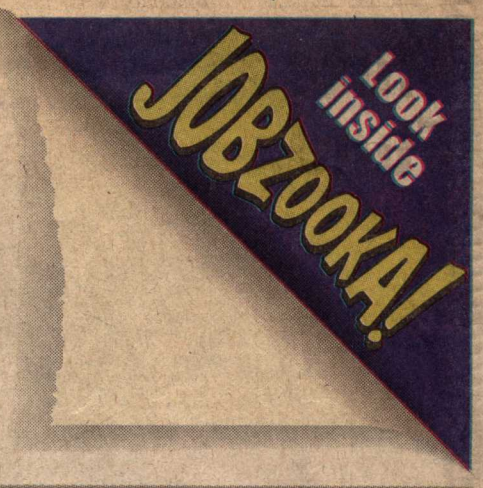
Chicago Tribune

Working

SUNDAY, JANUARY 14, 2001 ■ SECTION 6

Midwest's Leading Employment Marketplace

Job hunting basics
Find useful tools and proven strategies for a successful job search at the **chicagotribune.com/careers**



New ergonomic standards aim to help workers, but some companies object

Photo by Raul Rubiera / KRT

Faith Reeder holds one of the gardening tools that gave her a repetitive motion injury as a gardener for the U.S. Department of Agriculture. The Clinton administration has issued a new ergonomics standard to help workers from being injured on the job.

A motion for change

By Alessandra Losciale
KNIGHT RIDDER NEWSPAPERS

When Faith Reeder knits, her hands turn numb and her fingers go into spasms. She can no longer sleep because of the pain.

Reeder, 59, got carpal tunnel syndrome after working as a gardener for the U.S. Department of Agriculture for 15 years. Doing grafting and layering of fruit trees, her work involved using clippers, razors and knives to make minute cuts on the bark.

Reeder had surgery on one hand, but it didn't correct the condition. Because she was incapable of working, she lost her job. Now she gets disability pay, which she says is a quarter of what her salary was. "If I didn't have my husband, I wouldn't be able to survive," said the Redland, Fla., resident.

Citing the 1.8 million workers with ailments caused by repetitive motion jobs including gardening, packing and typing, the Clinton administration issued a new ergonomics standard in November, one of the most extensive pieces of labor legislation in 30 years.

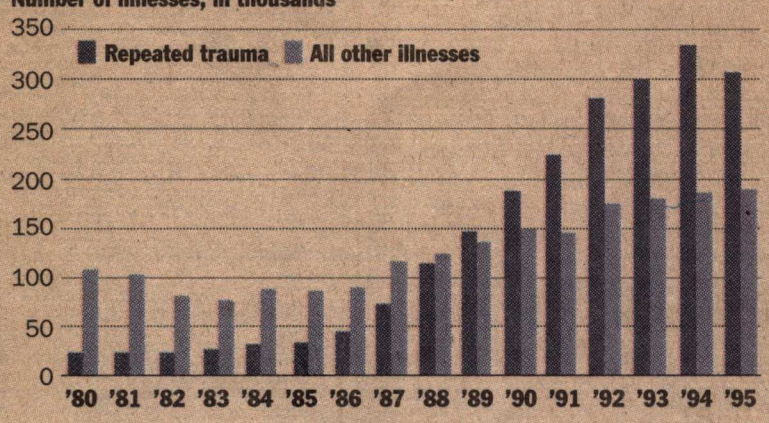
The guidelines say that 5.5 million workplaces nationwide must provide free medical care to workers with musculoskeletal disorders (MSD) and must compensate them with up to 90 days of employer-paid sick leave on the job. They must design and implement comprehensive ergonomics programs, teach their workers about the symptoms and risks of cumulative trauma disorders, and move employees who can't perform the tasks to lighter jobs.

The principle of ergonomics is that by fitting the job to the worker

SEE STANDARDS, PAGE 7

Workplace illnesses

In the past decade, the number of U.S. workplace injuries related to repetitive stress has risen markedly.



SOURCE: BLS Survey of Occupational Injuries and Illnesses, 1980-1995
GRAPHIC: Hiram Henriquez/Miami Herald

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Standards

CONTINUED FROM PAGE 1

through adjusting a workstation, rotating between jobs or using mechanical assists, MSDs can be reduced and ultimately eliminated.

While labor groups hailed the measure as a historic advance in worker protection, business organizations are already in court challenging the new standards, which go into effect on Tuesday and will be phased in over four years. They say the proposal is costly and won't accomplish what it set out to do.

"The cornerstone of the lawsuit is that there's no consensus in the scientific and medical communities over the causes of ergonomic injuries," said Pat Cleary, vice president of human-resources policy at the National Association of Manufacturers, one of the groups challenging the rules. "It's going to cost money with no impact on safety."

The government estimates the standard will cost $4.5 billion a year to implement, but the American Trucking Association figures the cost to trucking alone would be more than $6 billion. Food Distributors International said the cost to its members will be $26 billion. The Employment Policy Foundation estimates the cost to be $100 billion a year for all of business.

Charles Jeffress, head of the Occupational Safety and Health Administration, the agency responsible for the regulation, says it will save companies $9.1 billion a year, while sparing workers pain.

"The ergonomics programs improve productivity, and result in less worker's compensation, less employee turnover, and less time loss," he said, adding that the provision will encourage people to come forward earlier and report these injuries, while reassuring them that their pay will be continued.

More than policy, the ergonomics debate has become a hot political issue. President-elect George W. Bush could take measures to lighten the burden on business.

By reducing physical demands that exceed the physical capacity of workers, OSHA expects its new ergonomics standard to prevent about 460,000 cases of MSD each year, and to protect the 60 million workers employed at workplaces that have yet to address ergonomic standards.

"It's a tragedy it took this long," said Eric Frumin, safety director for the Union of Needletrades, Industrial and Textile Employees. "Millions of workers suffered injuries. We should have had a standard five years ago."

Many companies contend that they already have ergonomic standards in place, including training and ergonomically fit workstations.

Precision Response, a Ft. Lauderdale company that runs call centers throughout the country, for instance, replaces its chairs every three years. It gives ergonomic training and provides wrist guards if a job requires a lot of typing.

But OSHA says this may not be enough, should just one worker report an MSD injury.

It considers using a keyboard or mouse in a steady manner for more than four hours a day hazardous work. Other MSD risks include lifting more than 75 pounds at any one time, pushing or pulling more than 20 pounds of initial force, kneeling or squatting for more than two hours a day, and using tools with high vibration levels, such as jack hammers, for more than 30 minutes during a day.

While keeping extensive records of employee injury reports and the evaluations of ergonomic programs, the readjustments that companies must make include replacing furniture, redesigning factories, and changing work tools, should one employee complain.

But small business owners say they will be the greatest losers. Larry Levine, vice president of operations of Hollywood-based Brandsmart, says the rule goes too far and undermines the company's worker's compensation system by setting up MSD as the preferred injury type.

"It will create an undue burden in terms of operating costs on all businesses, and it will reduce the competitiveness in the world marketplace," Levine said. "The government is intruding on private industry. It's way over the line."

OSHA first proposed the standard for public comment a year ago. Business groups and Republicans in Congress call the ruling a swift political move to get the regulation passed before the new president takes office.

"They rushed to get out the rule. They've ambushed folks," said Kim Bosgraaf, manager of regulatory policy of the National Federation for Independent Business, a small business coalition, that says OSHA didn't address the concerns of the small business community.

But OSHA denies it was a political move, saying that talk of the ergonomics standard goes back to 1989, with the Bush administration.

While government and business groups fight in court, ergonomic consultants, chiropractors and physical therapists are already looking at bright prospects of lucrative careers. Pai Angela Decicco, a Coral Gables, Fla., massage therapist, says the new standards would mean more business.

"If it works out, it will be great for us, and the companies will get more work out of their people," she said.

Marvin Dainoff, professor of psychology at Miami University and Director of the Center for Ergonomic Research, agrees: "I'll start doing training courses for small businesses. Ergonomics is an important thing to learn."

Group takes aim at motion laws

By Peter Szekely
REUTERS

WASHINGTON—Bidding the Clinton administration good riddance in its waning days, a leading U.S. business group has unveiled a labor agenda that includes a two-front war against new repetitive motion safety standards.

Other labor policy goals of the National Association of Manufacturers include a "reasonable" patients' bill of rights and a renewed push to allow employers to give workers compensatory time instead of cash for overtime work and the relaxation of a law that bans company-dominated unions.

"We welcome the end of the constant drip, drip, drip of bad ideas from the Clinton administration," said Pat Cleary, NAM's vice president for human-resources policy. "Our goal will be hopefully to guide the ship back toward the center."

Business groups often complained that the Clinton administration was hostile to their interests and too supportive of organized labor, especially in matters that pit worker's rights against employer's.

Cleary said NAM looks forward to the incoming administration of President-elect Bush. "We want appointees in the administration who will administer and enforce the laws fairly," Cleary said. "If we only get that, it will be a sea change."

Stephen Crowley/The New York Times

Workers who say they were hurt on the job attended a news conference yesterday in which Senate Democrats sought preservation of safety rules.

Senate Votes to Repeal Clinton Workplace Injury Rules

Continued From Page A1

ized labor for its help to the Democrats in the November elections.

"It's probably the most expensive, intrusive regulation ever promulgated, certainly by the Department of Labor and maybe by the government entirely," Mr. Nickles said.

The rules were intended to protect tens of millions of workers, from secretaries to slaughterhouse workers, from carpal tunnel syndrome, back sprains and other injuries that often result from repetitive motion or strenuous lifting.

The Democrats and labor unions mounted a fierce defense of the regulations, flying in injured workers from around the nation to tell lawmakers how important these ergonomics regulations were.

Business lobbyists, union officials and injured workers could be seen roaming the halls of Congress today to meet with wavering Senate and House members. In essence, the confrontation over repeal was between those siding with business and those siding with workers.

Three Democratic Senators — Hillary Rodham Clinton of New York, Barbara Boxer of California and Barbara A. Mikulski of Maryland — held a news conference to contend that repealing the rules would be a slap in the face to women, who hold many of the most repetitive jobs, including typing.

"Repealing this standard would have a devastating effect on all workers, but especially women workers," Mrs. Clinton said. "Women make up 46 percent of the workforce, but account for 64 percent of repetitive motion injuries."

When OSHA, a branch of the Department of Labor, issued the rules in November, it said they would cost $4.5 billion to implement but would save businesses $9 billion a year in increased productivity and fewer sick days.

Mr. Nickles called the OSHA estimates "hogwash," insisting that the rules would cost far more to implement than they would save.

Democrats denounced the Republican repeal efforts as a breach of the bipartisan spirit that Mr. Bush has called for. Senator Tom Daschle of South Dakota, the Democratic leader, voiced exasperation today that after the Republicans seemed unwilling to compromise on the tax-cut bill, they were now intent on repealing the ergonomics rules along largely partisan lines.

The White House helped the Republican cause today by issuing its statement backing repeal. "These regulations would cost employers, large and small, billions of dollars annually while providing uncertain benefits," the statement said.

In a last-ditch rescue effort, Senator Edward M. Kennedy, the Massachusetts Democrat who led the fight against repeal, sought to persuade Mr. Nickles to withdraw the bill. He suggested that Congressional leaders spend 60 to 90 days working with Mr. Bush to examine problems with the regulations and then come up with compromise rules.

"Where is this bipartisanship?" Mr. Kennedy said. "Why not go back and say, 'Let's work this out?' "

Then, in an angry, booming voice, he added: "This is special-interest legislation. This is a political payoff. Make no mistake about it."

Many Democrats expressed concern that repealing the rules through the expedited method of the Congressional Review Act would essentially bar the Department of Labor from issuing new ergonomics rules unless Congress first gave the go-ahead. Seeking to allay such worries, Labor Secretary Elaine Chao issued a statement today saying she might pursue new ergonomics rules that address the criticisms made against the current regulations.

The two sides had sharply opposed views of the regulations. Democratic senators and their labor allies insisted that the rules, issued after 10 years of studies and hearings, were a long-delayed effort to address one of the nation's biggest workplace problems: the estimated 1.8 million injuries that workers suffer each year from the wear and tear of repetitive motions, like typing or chopping chickens in poultry plants.

But Republican senators and their business allies insisted that the regulations were onerous and overbroad.

"Simply put, OSHA rushed through the rulemaking process, stacked the evidentiary deck, ignored criticisms," said Mike Enzi, a Republican from Wyoming. "Is it any wonder that this flawed process produced a flawed rule? Use rotten milk, you get a rotten milkshake."

Business groups were quick to applaud tonight's vote, saying they would now direct their lobbying at the House. "Repeal of the ergonomics regulation is a top priority for the Chamber and its member companies," said Randy Johnson, vice president for labor policy at the United States Chamber of Commerce.

Walter B. McCormick Jr., president of the American Trucking Associations, issued a statement congratulating the Senate:. "Without so much as a guarantee that a single workplace injury will be prevented, this rule would unnecessarily drain U.S. businesses of billions of dollars that could be better used for job growth."

Senate Votes to Repeal Rules Clinton Set on Work Injuries

By STEVEN GREENHOUSE

WASHINGTON, March 6 — The Senate voted tonight along largely partisan lines to repeal new rules that former President Bill Clinton issued four months ago in an effort that he said would reduce workplace injuries.

After a day of fierce debate, the Senate voted 56 to 44 to rescind the rules, invoking a never-used legislative weapon that allows for the expedited repeal of new regulations, with just 10 hours of debate and without allowing amendments or filibuster.

In today's floor fight, Republicans denounced the regulations as prohibitively expensive for business, while Democrats said the rules were essential for workers and were expected to prevent 500,000 injuries a year.

For organized labor, the rules were important because they sought to make corporations focus far more on addressing the most common workplace injuries in the nation, ones that debilitate many workers for months, even years. In addition, union leaders say they fear that repeal will discourage the Occupational Safety and Health Administration and other federal agencies from issuing worker-friendly regulations that might upset some lawmakers in Congress.

With the Senate evenly split between Democrats and Republicans, Senator Don Nickles of Oklahoma, the Republican whip and the sponsor of the repeal effort, worked hard to win over a few centrist Democrats. The repeal effort was successful because Republicans held solid while six Democrats joined them.

Expecting the Senate action, House leaders said they planned to take up a similar bill later this week.

The six Democrats voting for the repeal were Senators Ernest F. Hollings of South Carolina, John B. Breaux of Louisiana, Max Baucus of Montana, Blanche Lincoln of Arkansas, Mary L. Landrieu of Louisiana and Zell Miller of Georgia.

The Republican effort received a boost early today when the White House issued a statement backing repeal, a move that union leaders said showed President Bush's callousness toward workers' causes.

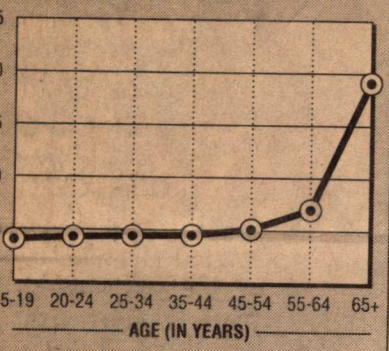
Asserting that the repealed rules could cost corporations more than $100 billion to implement, Mr. Nickles said that Mr. Clinton had rushed the rules into effect to reward organ-

Continued on Page A15

To be sure, older people are more likely to die in accidents, whether they are working or not. What concerns labor and health officials is that the older-worker fatality rates are surprisingly higher than expected, at a time when people are working well past traditional retirement age. As a result, the departments of Labor and

Aging Risk

Fatal injuries per 100,000 workers, 1992-1993 data*



*Based on hours worked

Sources: Bureau of Labor Statistics

Health and Human Services have identified older-worker fatalities as one of their priority problems to tackle.

For the most part, employers aren't aware of the data. Government researchers first spotted the problem a decade ago and conducted a series of studies between 1993 and 1997 as part of a broader effort to learn more about who gets hurt at work. But federal regulators have done little to publicize the government research, in part because they say they are uncertain about what, if anything, they can do to improve matters.

Legal and political complications make the issue of workplace deaths among the elderly particularly sensitive. Older people and their lobbyists have fought hard for the right to work without fear of age discrimination, and many are loath to support any special-protection measures, lest such protections become restrictions.

"Our interest is in seeing that the work force gets expanded," says Sara Rix, an analyst with the American Association of Retired Persons. "We've got to make sure that protective legislation will not be used against older workers."

It isn't even clear that such measures would pass muster under federal law. The Age Discrimination in Employment Act of 1967 bars employers from considering age in hiring and firing. An employer may consider whether a job is beyond any individual's capacity, but as a rule can't automatically preclude older people from any job.

On the other hand, federal labor and health officials point out that there are indisputable medical differences between the young and the old and that lives probably could be saved if employers paid

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Gray Area

For Older Employees, On-the-Job Injuries Are More Often Deadly

But as Elderly Work Force Grows, Advocates Shun Any Special Treatment

Calamitous Slip at Wal-Mart

By MICHAEL MOSS
Staff Reporter of THE WALL STREET JOURNAL

ABERDEEN, N.C. – Phyllis Chavez didn't complain after she slipped and hit her head in the Wal-Mart receiving area where she worked.

Seventy-one years old and suffering from arthritis, she declined a supervisor's offer to send her to a doctor immediately, instead waiting until after her shift. Ten weeks later, she died of complications after surgery for a brain injury resulting from the fall.

Phyllis Chavez

Mrs. Chavez's death this past February reflects the little-known, but significant, risks faced by older workers, whose ranks in the job market are increasing. Advocates for the elderly tout the fact that people age 65 and older have half as many accidents as their younger, sometimes-more-reckless colleagues, according to data compiled by the Bureau of Labor Statistics. But the agency paints a far harsher picture of the health effects of working into one's later years.

The federal studies, which compare accident and fatality rates to the worker population, show that older workers are nearly four times as likely as younger ones to die from job-related causes. Older workers are five times as likely to have a fatal transportation accident, 3.8 times as likely to get killed by objects and equipment and 3.4 times as likely to die in an assault. The higher death rates exist across industry lines.

What's more, many of the 500 or so workers 65 and older killed each year are in physically demanding jobs that would challenge even much younger people, according to Occupational Safety and Health Administration records of fatal accidents during the past decade. People in their 70s and 80s were driving tractors, delivering newspapers, shoveling grain, unloading crates and climbing scaffolding and extension ladders when they fell, got crushed or suffocated.

Older Workers Face Higher Fatality Risk

Continued From First Page

more attention to these distinctions. The most important difference lies in an individual's ability to bounce back after an accident. Not only do older workers as a group take nearly twice as long to mend, they are more apt to die from injuries from which younger people would recover.

But should the elderly be denied the right to work on a loading dock because of their higher risk of injury? Should they receive special training, or be given more rest periods than younger co-workers? Should employers insist that the elderly seek medical assistance whenever they get hurt on the job?

Such questions, now being posed for the first time by the HHS and Labor departments, are likely to become increasingly central to workplace safety, particularly as millions of baby boomers hurtle past middle age in the decades ahead. The number of older workers in the U.S. has risen to 3.8 million from three million, or about 3% of the total work force, during the past decade, and there is evidence in labor and income data that the percentage of older people who work is edging upward after decades of steep decline.

Certainly, some work seems particularly hazardous to those age 65 and older. Climbing ladders, for instance, resulted in 536 of the 21,000 serious injuries among older workers in 1994, and 13 of the 517 fatalities, according to government data. Falls of all types are involved in one-third of the injuries to older workers, almost twice the rate for all workers including the elderly. Likewise, falls account for about 13% of older workers' deaths, compared with 10% of deaths for all workers, studies show.

"I'm 51 years old, and I know for a fact that there's more risk for me to climb to the top of a rail car today than there was when I was younger and more agile," says Wayne Gordon, general manager of Farmers Cooperative Association in Jackson, Minn. The co-op paid $7,000 in penalties to OSHA over a 1993 incident involving a company it acquired, in which a 71-year-old worker who wasn't wearing a safety harness was sucked into a bin of soybeans and suffocated.

Mr. Gordon notes that it is difficult for him to dissuade older workers from doing specific tasks. "Individuals have a tendency to think they can still do things they did 20 years ago. In a nice way, you can suggest" they take less risky work, he says, "but you have to be very careful because of age-discrimination laws."

Mandatory Retirement?

Some precedent does exist for excluding older workers from certain jobs. While federal legislation has largely eliminated retirement caps, mandatory retirement was reimposed by Congress on police, firefighters and pilots starting 10 years ago, based on the argument that their health or strength would inevitably slip as they grew older. In these instances, though, the legislation stemmed more from concern about public safety than it did from consideration of the workers' well-being.

"This may sound like heresy," says Jay Waks, a New York attorney who represents corporations in labor cases, "but perhaps an arbitrary cap is necessary in order to ensure that workers are properly protected."

When older workers do take riskier jobs, the question becomes whether the workplace can be made safer through better design or training. In 1995, Joe Vega, 79, of Tampa, Fla., was cutting the straps off a pallet of bananas when six full crates fell and knocked him to the ground, killing him, according to OSHA. The agency fined his employer, Lumia & Valenti Inc., $600 for storing the fruit insecurely and sent the company a letter expressing concern that Mr. Vega hadn't been given any safety training.

In a survey of 8,000 older workers who were injured but not killed, published this spring by the American Journal of Industrial Medicine, only one in three had been trained in injury prevention. Younger workers are similarly ill-trained, government studies show.

The National Institute for Occupational Safety and Health in tandem with other agencies are planning new studies to learn more about what causes fatalities. That could lead to new safety measures that would benefit all workers, not just the elderly. "These are largely preventable problems," says Linda Rosenstock, director of NIOSH. Even simple measures might help, such as painting a step a bright color for people with diminished sight, she says.

Broadcasting older workers' susceptibilities raises a different concern among advocates for the elderly, who worry about the impact on their campaign to promote the positive aspects of older workers. "Myth: Older workers cost a company more because of higher absenteeism and accidents," reads a current AARP pamphlet on the work force, extrapolating from government figures. "Reality: Accident and attendance records are better for older workers than younger workers."

Higher Health Costs

The pamphlet doesn't make any mention of worker fatalities. "Maybe this is something we can't ignore," AARP's Ms. Rix says. Yet "Older workers have so many impediments to getting employed or remaining employed, even by stressing the fact that their hearing or eyesight may not be so good you may reinforce the negative images held by employers."

"I think that is a valid fear," says W. Scott Railton, a management attorney who is co-chairman of the American Bar Association committee on occupational safety and health law. "You look at an elderly person and you think immediately of your health costs." Indeed, the average per-person cost of health claims for 65-to-69 year old workers is more than double the cost for 45-to-59 year olds, government studies have shown.

Extensive studies of how older people get injured, regardless of where they happen to be, show they have higher risks of dying from burns and hip fractures because of impaired healing abilities and weaker defenses to infection.

Avoiding Medical Treatment

Moreover, researchers are now finding that brain injuries are a particular threat to the elderly. According to recent studies published by the federal Centers for Disease Control and Prevention, the number of such injuries begins rising at age 65; by 75 it surpasses even the peak rate for teenagers, who are notoriously injury prone. The reason is physiological. The brain shrinks as people grow older, enlarging the space between it and the skull where blood from broken vessels can gather dangerously unless the escaped fluid is removed. Even a slight bump to the head that causes no visible bruise can be deadly.

Doctors say appropriate medical treatment changes as an individual ages. But, again, the law is blind to age. Under workers' compensation laws, employers must make medical care available to workers who seek it. Yet many employees decline to see a doctor when injured on the job.

Others simply don't heed their doctor's warnings. William Crawford, 65, a native of southeast Tennessee who has been a masonry worker since 1955, is a case in point. Standing at a job site where he is helping to build a three-story college dormitory, the self-employed Mr. Crawford says he has been diagnosed with Parkinson's disease. His hand shakes when he removes it from his coveralls. His doctor has told him to stay off the scaffolding. "He says my mind might tell that leg to move when it's not supposed to," Mr. Crawford says. But he goes up anyway. "I hold on tighter than I used to."

Had Mrs. Chavez, her supervisor or her family known about the higher medical risks faced by the elderly, would she have acted with more resolve?

Mrs. Chavez's post-"retirement" work life began quite typically, in 1989, when she was laid off after 30 years in a baby-furniture factory. She wanted to supplement her $59-a-month pension and $487-a-month Social Security benefits, in large part to assist her children and grandchildren with gifts of clothing and cash.

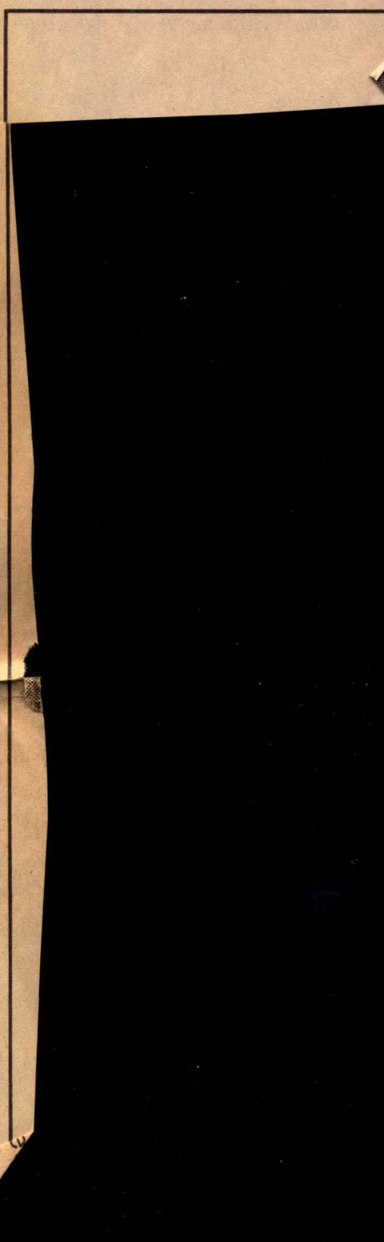
Her daughter, Anna McDonald, suggested that she work as a cashier, and was surprised when Mrs. Chavez instead took what was available: a 32-hour-a-week job in the back of the Wal-Mart store. She spent her eight-hour shifts — first with an overnight crew called the "Nighthawks," then starting at 5 a.m. — lifting clothes from boxes onto carts as the merchandise came off the trucks. Her $7.55 hourly wage gave her $160 a week after taxes.

The work, while not terribly taxing, became more difficult as her arthritis worsened and her arms began to ache. Still, there wasn't any evidence that the job was too tough for her. "Everybody was amazed at how strong she was," says Wal-Mart maintenance worker Fitzhugh Huff. Only a year before the accident did she seem to show the signs of her age, her daughter says.

Frightened and Confused

At 5:45 a.m. on Dec. 6, Mrs. Chavez was tossing scraps into a Dumpster next to the loading dock when she fell and hit her head. She became disoriented, asking a co-worker, "What do we do with these clothes?" according to her daughter and a family acquaintance who also happened to be shopping in the store later that morning. At one point, Mrs. Chavez cried, frightened by her confusion.

But she resisted going to a doctor unt



after her shift, about seven hours later, and by that time she was feeling better. The physician's assistant who examined her noted only that the fall had made her "groggy" and he concluded she didn't need any further examination.

Six days later, Mrs. Chavez returned to the clinic after two teeth loosened by the fall came out and she began having trouble gripping her keys. This time, she was sent to a hospital, where a CAT scan detected a brain injury. A specialist began treating her with drugs and allowed her to go back to work.

Using a stool to rest, she continued working through January and her 72nd birthday on Jan. 9 even as her condition grew worse. She lost more strength in her arms. She had headaches, memory lapses and sight problems.

Insistent on Working

Some days she would go to her car in the parking lot believing she had lost the ignition key, which was in fact in her hand, according to her daughter. The seizures obscured her eyesight: "She would be driving and ask Pop [her companion] to roll up his window as she turned on the wipers," Mrs. McDonald says. "But it wouldn't really be raining."

Mrs. Chavez insisted on working, her daughter says, because she worried about the many days she had already taken off to care for her sick boyfriend. She brushed off her family whenever they begged her to take some days off. "Mom was always saying, 'I'm fine, I'm fine, I'm fine.' "

A second CAT scan in late January was followed by emergency brain surgery. But a complication involving her lungs developed after the surgery, and Mrs. Chavez died a few days later.

State OSHA officials don't fault Wal-Mart Stores Inc. for her death. Company spokesman Dale Ingram says its policy is to let employees decide if they need medical care, without regard to their age. "Even with our tremendous record of giving older workers job opportunities, it doesn't give us a license to treat them any differently" on health issues, he adds.

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